

### **REMARKS/ARGUMENTS**

In light of the following remarks, reexamination and reconsideration of this application, withdrawal of the rejections, and formal notification of the allowability of all claims as presented are earnestly solicited. As detailed in the Office Action mailed April 26, 2007, Claims 1, 9-19, 25-32, and 40-42 are pending, wherein Claims 1, 9-15, 17, 25-29, 31, 32, 40, and 42 have been rejected and Claims 16, 30, and 41 have been objected to, but indicated as being allowable if rewritten in independent form. In response to the Office Action, the Applicants traverse the rejections and submit that previously-amended Claims 1, 18, and 32 do define patentable subject matter. Accordingly, notice to such effect is requested at the Examiner's earliest convenience.

#### **Claim Rejections – 35 U.S.C. §103**

Claims 1, 9, 12-15, 17-19, 25, 27-29, 31, 32, 40, and 42 were rejected as being obvious over U.S. Patent No. 5,614,670 to Nazarian *et al.* in view of U.S. Patent No. 5,952,561 to Jaselskis *et al.* and in further view of U.S. Patent No. 6,995,667 to He *et al.* In response, the Applicants traverse these rejections.

More particularly, the Applicants first note that U.S. Patent No. 6,995,667 to He *et al.* cited in the Office Action was filed on **December 23, 2002**, and first published on **November 17, 2005**. In this regard, the Applicants submit that the present Application No. 10/817,169, was filed on April 2, 2004 as a continuation-in-part of Application No. 10/269,843, filed **October 11, 2002** (now U.S. Patent No. 6,915,216), and claims priority thereto. The Applicants further note that the relationship of present Application No. 10/817,169 to the parent Application No. 10/269,843 has already been acknowledged in this matter. Accordingly, the Applicants submit that **the He '667 patent, fled on December 23, 2002, and published on November 17, 2005, DOES NOT constitute prior art with respect to present Application No. 10/817,169, which claims priority to parent Application No. 10/269,843, filed October 11, 2002.**

The Applicants further note that the He '667 patent was cited in the present Office Action for allegedly disclosing "[a] monitoring system 5 [that] provides a wireless tracking and/or communication system between a remote tracking station 20 and a plurality of different nuclear

gauges 10; column 6, lines 22-25; figure 2, elements 10, 14 and 20.” The Office Action further alleges that the claim language of Claims 1, 18, and 32, particularly “the communication element comprising a wireless transceiver operably engaged with each of the measuring device and the computer device, and the wireless transceivers being configured to be capable of communication therebetween,” reads upon such disclosure of the He ‘667 patent.

However, the Applicants submit that such an aspect of the present invention, namely **a wireless communication system between the computer device and each measuring device, is included in the original disclosure of the parent Application No. 10/269,843** and, as such, **does not comprise new matter in the present Application No. 10/817,169**. That is, the parent Application No. 10/269,843 (with particular reference to corresponding U.S. Patent No. 6,915,216) particularly discloses a computer device 400 in wireless communication with each measuring device 100 (Col. 4, lines 47-50), such as through Bluetooth wireless technology, various analog and/or digital wireless communication systems, and/or modulation schemes such as IR, FSK, PSK, or radio frequency systems (Col. 4, lines 53-60). Further, such wireless communication may include the computer device 400 collecting data from the measuring device 100 (Col. 5, lines 15-21), or the computer device 400 manipulating the measuring device 100 (Col. 7, lines 39-44). That is, the disclosed wireless communication system is configured as providing for two-way wireless communication between the computer device 400 and each measuring device 100. Thus, the He ‘667 patent **does not** constitute prior art with respect to the present Application No. 10/817,169 for the wireless communication system aspect cited in the Office Action.

Since the He ‘667 does not constitute prior art with respect to the aspect of a wireless communication system between a computer device and a measuring device, as cited in the Office Action, the obviousness rejections set forth in the Office Action cannot be maintained. Accordingly, the Applicants request withdrawal of these rejections of Claims 1, 9, 12-15, 17-19, 25, 27-29, 31, 32, 40, and 42. Upon withdrawal of the rejections of Claims 1, 9, 12-15, 17-19, 25, 27-29, 31, 32, 40, and 42 set forth in the Office Action, the Applicants request reinstatement of the indicated allowability of cancelled Claims 8, 24, and 39 as set forth in the previous Office Action mailed on December 11, 2006, wherein the subject matter of cancelled Claims 8, 24, and

39 have already been incorporated into Claims 1, 18, and 32, respectively, now pending. The Applicants thus submit that pending Claims 1, 18, and 32, as well as Claims 9, 12-15, 17, 19, 25, 27-29, 31, 40, and 42 which depend therefrom, are patentable and, as such, are believed to be in condition for immediate allowance.

### **Conclusion**

In conclusion, for the reasons set forth above, the Applicants submit that all claims now pending are in condition for immediate allowance. Accordingly, notice to such effect is respectfully requested at the Examiner's earliest opportunity.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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